

P.R. No. 5976/06
 Presented by Shri. S. Patel
 dated 30-10-06

(2)

CF 1002

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IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR**W.P. NO. 5937 /2006****PETITIONER**

Ledga Ram Sahu, S/o. Phool Singh ✓
 Sahu, aged about 60 years,
 Village & Post Ahilda, Tehsil Baloda
 Bazar, District Raipur (C.G.)

VERSUS**RESPONDENTS**

1. State of Chhattisgarh, ✓
 Through Secretary, Water Resources
 Department, D.K.S. Bhavan,
 Mantralaya, Raipur (C.G.)

Executive Engineer, ✓
 Water Resources Management
 Division No. 2, Baloda Bazar, Raipur

3. Sub Divisional Officer, ✓
 Water Resources Department, Sub
 Division No. 6, Baloda Bazar,
 District Raipur (C.G.)

**WRIT PETITION UNDER ARTICLE 226/227 OF THE
 CONSTITUTION OF INDIA FOR ISSUANCE OF A WRIT IN THE
 NATURE OF MANDAMUS, PROHIBITION, CERTIORARI ETC. OR
 ANY OTHER DIRECTION OR ORDER TO DO JUSTICE IN THE
 MATTER**

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HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

Single Bench: Hon'ble Shri Satish K. Agnihotri, J.

W. P.(S) No. 5937 of 2006

Petitioner : Ledga Ram Sahu

Versus

Respondents : State of Chhattisgarh & Others

Shri Sunil Otwani, counsel for the petitioner.

Shri V.V.S. Moorthy, Deputy Advocate General with Ms. Deepali Pandey, Panel lawyer for the respondents/State.

ORDER

(2nd November, 2006)

1. The petitioner was employed as a Contingency Paid Gangman in the Department of Water Resources. The age of superannuation is admittedly 60 years. The petitioner would complete the age of superannuation on 4.11.2006.
2. Learned counsel appearing for the petitioner submits that as per circular dated 12.5.1980, if an employee superannuates on a day except the first day of the month, he would retire on the last day of the month.
3. The circular dated 12.5.1980 needs as under,

"विषय-कार्यभारित तथा आकस्मिकता व्यय के वेतन पाने वाले कर्मचारियों की सेवा के सदस्यों की सेवानिवृत्ति तिथि के सम्बन्ध में।

राज्य शासन ने यह निर्णय लिया है कि कार्यभारित तथा आकस्मिक व्यय से वेतन पाने वाले ऐसे कर्मचारी जो कि इस सेवा के सदस्य हैं, की सेवानिवृत्ति की तिथि होगी वही तिथि होगी जो मूल नियम 56 के प्रावधानों में नियमित शासकीय सेवकों को लागू है अर्थात् इस सेवा के चतुर्थ श्रेणी कर्मचारियों

को छोड़कर अन्य कर्मचारियों को उनकी आयु जिस माह में 58 वर्ष पूर्ण होगी उस माह के अन्तिम दिन अपरान्ह में उन्हें सेवानिवृत्त किया जावेगा। किन्तु यदि किसी कर्मचारी की जन्म तिथि महीने की पहली तारीख हो तो उसे पूर्ववर्ती मास के अन्तिम दिन अपरान्ह में सेवानिवृत्त किया जावेगा।

2. चतुर्थ श्रेणी के कर्मचारियों को जिस माह में वे 60 वर्ष की आयु पूर्ण करेंगे उस माह के अन्तिम दिन अपरान्ह में सेवानिवृत्त किया जावेगा, किन्तु यदि किसी कर्मचारी की जन्म तिथि महीने की पहली तारीख हो तो उसे पूर्ववर्ती मास के अन्तिम दिन अपरान्ह में सेवानिवृत्त किया जावेगा

(वि.वि.क.1561/3355/79/नि-2/चारदिनांक 12-5-1980)"

4. Since, the petitioner would superannuate on 4.11.2006, he is entitled to continue and retire from service on the last date i.e. 30.11.2006, in accordance with the above stated circular.
5. Shri V.V.S. Moorthy, learned Deputy Advocate General with Ms. Deepali Pandey, learned Panel lawyer appearing for the State/respondents submits that the circular is very clear and there is no scope for any confusion or for ambiguity. The petitioner would retire on the last date of the month i.e. 30.11.2006.
6. As a result and for the reasons-stated above, this writ petition is allowed and the petitioner is permitted to continue working till 30.11.2006 on attaining the age of superannuation. No order as to costs.

Certified copy as per rules.

Sd/-
Satish K. Agnihotri
Judge